

**In the United States District Court
for the Southern District of Georgia
Brunswick Division**

2009 OCT 13 PM 8:21

SOUTHERN DISTRICT OF GA.

RALPH MERCADO, : CIVIL ACTION
Petitioner, :
v. :
UNITED STATES OF AMERICA, :
Respondent. : NO. CV208-163
(NO. CR295-6)

ORDER

On September 24, 2009, Magistrate Judge James E. Graham entered a report and recommendation suggesting dismissal of Petitioner's case. Judge Graham concluded that Mercado's filing was untimely if construed as a motion pursuant to 28 U.S.C. § 2255, and that Federal Rule of Civil Procedure 60(b) did not afford Mercado any relief in his underlying criminal case. Presently before the Court are Mercado's objections to the report and recommendation.

After an independent review of Mercado's objections to the Magistrate Judge's findings, the Court concurs with the Magistrate Judge's suggested disposition of the case and hereby **ADOPTS** the report and recommendation as the order of

the Court. Petitioner's objections are **OVERRULED**. Dkt. No.

29. The Clerk shall enter judgment accordingly.

SO ORDERED, this 13th day of October, 2009.



JUDGE, UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF GEORGIA